

DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, NORTHWESTERN DIVISION  
PO BOX 2870  
PORTLAND OR 97208-2870

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REPLY TO  
ATTENTION OF

May 25, 2006

District Support Team

✓ Mr. Michael Gearheard, Director  
Office of Water and Watersheds  
U.S. Environmental Protection Agency, Region 10  
1200 Sixth Avenue  
Seattle, WA 98101

Ms. Stephanie Hallock, Director  
Oregon Department of Environmental Quality  
811 SW Sixth Avenue  
Portland, OR 97204

Mr. Jay Manning, Director  
Washington Department of Ecology  
P.O. Box 47600  
Olympia, WA 98504-7600

Dear Sirs/Madam:

The U.S. Army Corps of Engineers (Corps) appreciates the continuing coordination between our respective agencies concerning mutual responsibilities pursuant to the Clean Water Act (CWA) and the Corps' obligations to provide for congressionally authorized project uses while meeting other statutory and regulatory requirements. As you know, operating the Corps' Columbia River Basin projects for a variety of uses, including flood control, navigation, fish and wildlife, irrigation, water quality and supply, power generation, and recreation is multifaceted and highly complex.

The Corps, U.S. Environmental Protection Agency (EPA) Region 10, and Oregon Department of Environmental Quality (ODEQ) last met on January 23, 2006, to discuss water quality issues concerning the Corps' Applegate project and the Applegate Subbasin Total Maximum Daily Load (TMDL). Since that time, several other regional actions pertaining to water quality and Federal projects in the states of Oregon and Washington have occurred. Those include the EPA Region 10's partial disapproval of the state of Washington's temperature standards for some water bodies during certain times of the year, ODEQ's release for comment select portions of the recently revised Willamette Basin draft temperature TMDL, and ODEQ's release of a draft TMDL for Willow Creek for comment.



The Corps has consistently expressed our concern, despite implementation of best management practices, that the water quality standards (WQS) for temperature are not fully attainable on water bodies with existing Federal dams. We continue to support EPA Region 10's initiative to work collaboratively with Pacific Northwest states, Tribes, Federal dam operators and other agencies, on issues concerning attainability of water quality standards for temperature on water bodies affected by the existence and operation of Federal dams.

EPA Region 10, ODEQ, and Federal dam operators identified a Use Attainability Analysis (UAA), provided for in the CWA implementing regulations at 40 CFR 131.10(g)(4), as a means of addressing the lack of attainability of WQS or TMDL allocations on water bodies with Federal dams. Over the course of the last year, ODEQ initiated a collaborative process to develop guidance for conducting a UAA in the state of Oregon. During the development of this guidance (the Oregon Use Attainability Analysis Internal Management Directive), the Corps, EPA Region 10, and the Bureau of Reclamation (Reclamation) jointly submitted a letter to ODEQ, dated May 4, 2005, describing a workable process and specifically delineating elements considered to be appropriately addressed in a UAA (Enclosure 1). Subsequently, on July 18, 2005, the Corps transmitted a letter to ODEQ identifying the Applegate Dam as an appropriate UAA pilot project. The Corps and ODEQ met several times to discuss the approach for proceeding with this UAA.

While the Corps is firmly committed to continuing this important work, the significant unresolved technical and policy issues that are highlighted with the release of selected portions of the draft temperature TMDL for the Willamette Basin and the partial disapproval of Washington's temperature WQS by EPA Region 10, must be addressed in order to achieve an optimal balance between: (1) the existence and operation of Federal dams to achieve their congressionally mandated functions; (2) the statutory requirements of the CWA; and (3) the statutory requirements of the Endangered Species Act.

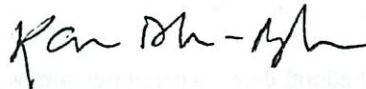
The Corps is proposing to go forward with our good faith efforts to collaboratively utilize the UAA process as described in the Federal agencies' joint letter, as a means to effectively address and resolve these issues of significant public interest. However, until we better understand how attainability issues associated with Federal dams, WQS, and temperature TMDLs will be resolved, it is premature, and not prudent for us to expend limited resources concerning management plans or any other requirements associated with these TMDLs.

In order to resolve the concerns about attainability of WQS for temperature at Federal dams, we look forward to re-engaging in this UAA process at the earliest opportunity. I have asked my staff to contact ODEQ and EPA Region 10 staff to resume discussions and proceed with the

Applegate UAA pilot project. Also, I am asking my staff to contact Washington Department of Ecology, EPA Region 10, and Reclamation staff to discuss the attainability of Washington's temperature WQS at existing Federal dams.

Please contact David Ponganis at the Corps' Northwestern Division office at 503.808.3828 regarding any questions.

Sincerely,



Karen L. Durham-Aguilera, P.E.  
Director, Programs

Enclosure

Copies Furnished:

Mr. Monte McClendon  
Bureau of Reclamation  
Pacific Northwest Regional Office  
1150 North Curtis Road, Suite 100  
Boise, ID 83706-1234

MAY -4 2005

Stephanie Hallock, Director  
Oregon Department of Environmental Quality  
811 SW Sixth Avenue  
Portland, OR 97204

Dear Ms. Hallock:

The U.S. Environmental Protection Agency, the U. S. Army Corps of Engineers (Corps), and the Bureau of Reclamation have discussed workable processes for Use Attainability Analyses (UAAs) for Federal dams, and have collaborated upon an acceptable approach. Specifically, we agree upon what elements we consider to be appropriately addressed in a UAA conducted under 40 CFR 131.10(g)(4). We are pleased to be able to provide you with our perspective.

We encourage the Oregon Department of Environmental Quality to include these elements in preparing your Oregon Use Attainability Analysis Internal Management Directive for public comment. The process we envision and agree upon is:

1. Federal dam owners/operators would prepare an evaluation package for submittal to the State or Tribe for the purpose of initiating the UAA process;
2. The evaluation package would be developed for purposes of analyzing whether potential structural and/or operational modifications to the dam would result in the attainment of the use;
3. The evaluation package would consider potential technological limitations, beneficial and adverse environmental effects, and/or economic factors;
4. The dam operating agency would use its professional and technical judgment and expertise to conduct good faith and diligent analyses of the range of reasonably available structural and/or operational modifications considered. These analyses would be presented to the State or Tribe, as appropriate, and include the dam operating agency's conclusions of how the potential modifications may affect the attainability of the designated use;
5. The evaluation should be appropriate for the facility and the waterbody in question;
6. The evaluation should, where possible, rely upon existing information and evaluations; and



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7. The dam operating agency would provide the evaluation to the State or Tribe, as appropriate, as part of the process by which the State or Tribe would determine whether attaining the use is not feasible for purposes of establishing a sub-category or removal of a designated use.

In offering our perspectives on the proper conduct of a UAA for Federal dams, we note that for the Federal activities we contemplate under the UAA process and for the related projects, each of the undersigned agencies must meet all requirements of our authorizing statutes and implementing regulations. Nothing in the UAA process alters the specific statutory or regulatory authorities or responsibilities assigned to EPA, the Corps, the Bureau of Reclamation, or the State or authorized Tribe, nor alters existing statutory roles and responsibilities of other agencies, or statutory requirements.

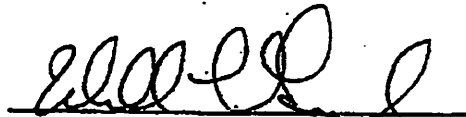
We recommend the approach outlined above as the best and most practical way to conduct Use Attainability Analyses for Federal dams under 40 CFR 131.10(g)(4), consistent with all of our obligations.

Thank you very much for your favorable consideration. If you would like to discuss this approach, we would be pleased to meet with you.

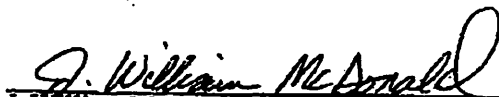
Sincerely,



Michael F. Gearheard  
Director  
Office of Water and Watersheds  
U.S. Environmental Protection Agency - Region 10



Brigadier General William T. Grisoli  
Division Engineer  
U.S. Army Corps of Engineers  
Northwestern Division



J. William McDonald  
Regional Director  
U.S. Bureau of Reclamation